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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/937,883 09/25/97 GRUPER

S COLB-0083

020741 TMQ2/0522  
HOFFMAN WASSON & GITLER  
2361 JEFFERSON DAVIS HIGHWAY  
SUITE 522  
ARLINGTON VA 22202

EXAMINER

FOLLANSBEE, J

ART UNIT	PAPER NUMBER
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2154

DATE MAILED:

05/22/01

12

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

SPR

## Office Action Summary

Application No.  
**08/937,883**Applicant(s)  
**Gruper et al.**Examiner  
**John Follansbee**Art Unit  
**2154**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Nov 28, 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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### DETAILED ACTION

1. Claims 1-18 are presented for examination.
2. The declaration filed on 11/21/00 under 37 CFR 1.131 has been considered but is ineffective to overcome the Secure4U reference.
3. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the March 17, 1997 reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). As per section 3 of the declaration, the last page of the Secure4U reference shows a copyright date 1997. The examiner simply looked up the exact copyright date from the url <http://lcweb.loc.gov/copyright/>. The print out of the copyright information for Applicant was not deemed necessary by the examiner, because the Secure4U reference's date was established by the supporting copyright dates. Enclosed is a copy of the copyright information. Furthermore, section of 5[a] of the declaration, the limitation "an identifier for identifying an application to be run" is not supported by Section 2 and 2.1, 2.2, 2.7. These sections relate the system monitoring applications which are already running. Section 5[b] of the declaration, the limitation "a listing associated with at least one of said applications to be

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run” is not supported by section 4 of Appendix C and page 2, sections 4 and 5, of Appendix D. Section 4 of Appendix C, does not reference any list of applications to be run. Sections 4 and 5, of Appendix D, reference the word “list” but in a different context from that claimed. These sections relate to applications already running and monitoring whether file accesses can occur. No association of a list to applications is shown. Section 5[c] of the declaration, the limitation “said listing identifying different sectors of said storage device and associating with each identified sector an access level required by said application” is not supported by page 3 of Appendix C and page 2, sections 4 and 5, especially section 4.2 of Appendix D. This sections do not mention anything about the list, let alone identifying different sectors and associating the sector with an access level required by the application. Section 5[d] of the declaration, the limitation “an enforcement device, for prohibiting said at least one application from accessing an identified sector of said storage device at any level higher than said associated required access level” is not supported by Appendix D, section 4. It does not show the claimed limitations for reason similar to those set forth above. Therefore the claimed invention of claim 1 was not conceived prior to March 17, 1997.

Section 6[d'] of the declaration is not supported by Appendix D, section 4 for similar reasons as stated above. Section 6[e] is not supported by Appendix D, sections 1, 4 and 7. These sections never reference anything about sectors and preventing access, querying the attempt with the user and if found acceptable then including the higher level of access in the listing. Therefore, claim 2 was not conceived prior to March 17, 1997.

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Section 7[e'] of the declaration is not support by Appendix D, sections 4 and 7, for similar reasons as stated above. Therefore, claim 3 was not conceived prior to March 17, 1997.

Section 8 [f] of the declaration is not supported by Appendices B-E for similar reasons as stated above. Furthermore, these Appendices never inherently reference anything about firstly identify a listing and if the listing cannot be found then identifying a listing associated with the application for use with the enforcement device. Therefore, claim 8 was not conceived prior to March 17, 1997.

Claims 9, 13-18 are not supported by the declaration for similar reasons as stated above and were therefore never conceived before March 17, 1997.

As per claims 6-7, it is not an inherent feature of declaration. Therefore, claims 6-7 were not conceived prior to March 17, 1997.

As per claims 4, 5 and 10-12, the combination of Secure4U and additional publications is sufficient to reject the claims.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1-3, 6-9 and 13-18 are rejected under 35 U.S.C. 102(a) as being clearly anticipated

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by Secure4U (copyright date March 19, 1997).

6. As per claims 1-3, 8, 9 and 13-17, they are rejected as being clearly anticipated by Secure4U based on Applicant's assertion that claims 1-3, 8, 9 and 13-17 are unquestionably being infringed upon by Secure4U of paper no. 5.

7. As per claim 18, claim 18 is a conglomeration of claims 3, 9, 16 and 17, and is therefore rejected for same reasons as stated above.

8. As per claims 6 and 7, it is an inherent feature that Secure4U stops querying when reset because when the system is reset all processing is stopped.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Secure4U (copyright date March 19, 1997) in view of Shane (5,793,972).

11. Shane shows the use of determining attempts for the duration of one of a predetermined time period and a predetermined number of access attempts (e.g. col. 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Shane

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with Secure4U because it would provide for enhanced security mechanisms.

12. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Secure4U (copyright date March 19, 1997) in view of Lohstroh et al. (5,768,373) (hereinafter Lohstroh).

13. Lohstroh shows the use of an operator to override security measures (e.g. col. 1). It would have been obvious to one of ordinary skill at the time the invention was made to combine the Lohstroh with Secure4U because it would provide for access to secured data when an access key to the data has been lost or forgotten.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Follansbee whose telephone number is (703) 305-8498. The examiner can normally be reached on Monday to Friday from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng An, can be reached on (703) 305-9678. The fax phone number for the organization where this application or proceeding is assigned is (703) 306-5404.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9600.

John Follansbee

May 21, 2001.



**JOHN A. FOLLANSBEE  
PRIMARY EXAMINER**

WEDNESDAY, 05/21/01 10:43 A.M.

\*\*\*COHM- THE COPYRIGHT MONOGRAPH FILE

is now available for your search.

The Term Index, updated on 05/19/01, contains 13,891,754 terms.

To learn about the contents of this file, type

HELP and transmit.

For a description of available commands, type

SHOW COMMANDS and transmit.

READY FOR NEW COMMAND:

TX-4-799-924 (COHM) ITEM 1 OF 1 IN SET 1

TITL: Secure4U.

PHYS: Computer program.

NOTE: Printout only deposited.

CLNA: acAdvanced Computer Research

DCRE: 1997 DPUB: 19Mar97 DREG: 12Jun98

APTI: Personal Firewall.

ECIF: 1/C

READY FOR NEW COMMAND: